

Message

From: Matsumoto, Kimi [Matsumoto.Kimi@epa.gov]
Sent: 10/23/2019 9:50:19 PM
To: Joffe, Brian [Joffe.Brian@epa.gov]
Subject: FW: RE: FW: Clean Water Act and Water Resources – Recent Developments

Just fyi – per KC's request

From: Matsumoto, Kimi
Sent: Wednesday, October 23, 2019 1:03 PM
To: ann.minesbailey@state.sd.us
Cc: Schefski, Kenneth <Schefski.Kenneth@epa.gov>; Sutin, Elyana <Sutin.Elyana@epa.gov>; Blair, Steven <steven.blair@state.sd.us>
Subject: FW: RE: FW: Clean Water Act and Water Resources – Recent Developments

Hello Ms. Bailey,

Per the e-mail exchange below, our office would like to have a general understanding of any laws, regulations and policies that South Dakota may have in place or in development regarding potential sources and applications for water reuse. Any thoughts or information along these lines would be appreciated.

Also, ORC would like to provide a courtesy notice of an additional EPA action that may be of interest:

EPA has proposed two Underground Injection Control (UIC) Draft Area Permits and one associated proposed aquifer exemption decision for the Dewey-Burdock uranium in-situ recovery (ISR) site located near Edgemont, South Dakota, under the authority of the Safe Drinking Water Act and UIC program regulations. <https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits-2019>. The comment deadline is December 9, 2019.

In addition to seeking comments on the Class III and V draft area permits, the EPA is seeking public comment on: 1) the identification of traditional cultural properties at the Dewey-Burdock Project Site Area of Potential Effects, on the potential adverse effects of the proposed project, and on measures to avoid, minimize, or mitigate potential adverse effects on historic and traditional cultural properties pursuant to Section 106 of the National Historic Preservation Act and 36 CFR § 800.2(d) and § 800.6(a)(4); 2) options for approval of the aquifer exemption that Powertech requested related to the Class III permit application which are discussed in the Aquifer Exemption draft Record of Decision; and 3) a revised draft environmental justice analysis for the Dewey-Burdock UIC permitting actions.

Thank you,
Kimi

Kimi Matsumoto
Senior Assistant Regional Counsel
Legal Counseling & FOIA Branch
U.S. EPA Region 8 Office of Regional Counsel
1595 Wynkoop Street
Denver, CO 80202
303.312.6875

From: Blair, Steven <Steven.Blair@state.sd.us>
Sent: Wednesday, October 16, 2019 2:57 PM
To: Schefski, Kenneth <Schefski.Kenneth@epa.gov>

Cc: Matsumoto, Kimi <Matsumoto.Kimi@epa.gov>; Sutin, Elyana <Sutin.Elyana@epa.gov>

Subject: RE: RE: FW: Clean Water Act and Water Resources – Recent Developments

Thank you for the clarification! I would be your point of contact in South Dakota for hard rock mining, oil & gas, air quality, and feedlot issues. My contact information is via this email address or at 605-394-6038. For water rights and water quality issues your point of contact would be Assistant Attorney General Ann Mines Bailey. Ms. Bailey's contact information is ann.minesbailey@state.sd.us or via phone at 605-773-3215. Please let me know if you need any further information.

Thanks!

Steve Blair – Asst. AG

From: Schefski, Kenneth <Schefski.Kenneth@epa.gov>

Sent: Wednesday, October 16, 2019 2:51 PM

To: Blair, Steven <Steven.Blair@state.sd.us>

Cc: Matsumoto, Kimi <Matsumoto.Kimi@epa.gov>; Sutin, Elyana <Sutin.Elyana@epa.gov>

Subject: [EXT] RE: FW: Clean Water Act and Water Resources – Recent Developments

We're looking for a point of contact in the AG offices, but we would welcome input from the state regulatory agencies too.

Thanks, KC

K.C. Schefski
Regional Counsel
US EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202

Work: 303.312.6843 | Cell: 303-549-5915 | Fax: 303-312-7202

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From: Blair, Steven <Steven.Blair@state.sd.us>

Sent: Wednesday, October 16, 2019 2:06 PM

To: Schefski, Kenneth <Schefski.Kenneth@epa.gov>

Cc: Matsumoto, Kimi <Matsumoto.Kimi@epa.gov>; Sutin, Elyana <Sutin.Elyana@epa.gov>

Subject: RE: FW: Clean Water Act and Water Resources – Recent Developments

Mr. Schefski,

Good afternoon! Is your inquiry regarding staff contacts EPA staff may work with directed at identifying staff contacts on the front line within the applicable state regulatory agency, or at identifying staff contacts within the respective AG offices?

Thank you for clarifying!

Steve Blair – Asst. AG

From: Schefski, Kenneth <Schefski.Kenneth@epa.gov>
Sent: Wednesday, October 16, 2019 1:54 PM
To: Blair, Steven <Steven.Blair@state.sd.us>
Cc: Matsumoto, Kimi <Matsumoto.Kimi@epa.gov>; Sutin, Elyana <Sutin.Elyana@epa.gov>
Subject: [EXT] FW: Clean Water Act and Water Resources – Recent Developments

Dear Mr. Blair,

In furtherance of the EPA Region 8 Office of Regional Counsel's (ORC's) coordination efforts with Attorneys General offices in EPA Region 8, we would like to share some recent EPA actions taken under the Clean Water Act and/or involving water resources (please note ongoing comment period deadlines in bold below). In light of EPA's recent release of a Draft Water Reuse Action Plan and Draft Study of Oil and Gas Extraction Wastewater Management, ORC would like to better understand the laws and regulations the states in our Region have in place regarding reuse of water. If you have a staff contact(s) with whom our office staff may work, we would like to follow up with further information about EPA's actions and discussions about South Dakota related laws and regulations.

Sincerely,

K.C. Schefski
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1595 Wynkoop Street
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Clean Water Act and Water Resources – Recent Developments

- CWA Waters of the United States
 - Link to EPA WOTUS website: <https://www.epa.gov/wotus-rule>
 - Sept. 2019, Final Rule – Recodification of Pre-Existing Rules (Repeal of 2015 Rule)
 - Link to Repeal of 2015 Rule website: <https://www.epa.gov/wotus-rule/step-one-repeal>
 - Link to Sept. 2019 Final Rule: https://www.epa.gov/sites/production/files/2019-09/documents/wotus_rin-2040-af74_final_fm_prepub2.pdf
 - Feb. 14, 2019 Proposed Rule – Revised Definition of “Waters of the United States”
 - Link to Revised Definition of WOTUS website: <https://www.epa.gov/wotus-rule/step-two-revise>
 - Link to Feb. 14, 2019 Proposed Rule: <https://www.federalregister.gov/documents/2019/02/14/2019-00791/revised-definition-of-waters-of-the-united-states>
- CWA 401 certifications
 - August 22, 2019 Proposed Rule – Updating Regulations on Water Quality Certification: **Comments due Oct. 21, 2019**
<https://www.epa.gov/cwa-401/proposed-rule-updating-regulations-water-quality-certification-0>
 - June 7, 2019 CWA Section 401 Guidance for Federal Agencies, States and Authorized Tribes
https://www.epa.gov/sites/production/files/2019-06/documents/cwa_section_401_guidance.pdf

- EPA Interpretative Statement on Application of the Clean Water Act National Pollutant Discharge Elimination System Program to Releases of Pollutants From a Point Source to Groundwater, April 23, 2019
 - <https://www.govinfo.gov/content/pkg/FR-2019-04-23/pdf/2019-08063.pdf>
- June 3, 2019 Policy for EPA Review and Action on CWA Program Submittals
 - Link to Policy: https://www.epa.gov/sites/production/files/2019-06/documents/policy_for_the_epas_review_and_action_on_cwa_program_submittals_0.pdf
- EPA Draft Water Reuse Action Plan
 - Sept. 16, 2019 Federal Register Notice - Draft National Water Reuse Action Plan: **Comments due Dec. 16, 2019**
<https://www.federalregister.gov/documents/2019/09/16/2019-19984/draft-national-water-reuse-action-plan>
- EPA May 2019 Draft Study of Oil and Gas Extraction Wastewater Management Under the Clean Water Act
 - https://www.epa.gov/sites/production/files/2019-05/documents/oil-and-gas-study_draft_05-2019.pdf